

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE**

JONES, ET AL.

Plaintiffs,

v.

VARSITY BRANDS, LLC, ET AL.,

Defendants.

**Case No. 2:20-cv-02892-SHL-tmp**

**DEFENDANTS' MOTION TO SET PAGE ALLOWANCES FOR SUMMARY  
JUDGMENT MOTIONS**

Defendants respectfully move the Court under Local Rule 56.1 to set page allowances for legal memoranda and statements of material fact in support of Defendants' anticipated motions for summary judgment, including leave to file a joint brief in excess of the page limits set by the Local Rules.

Pursuant to the Court's scheduling orders, summary judgment motions must be filed by July 28, 2023. Local Rule 56.1 states that, without prior Court approval, memoranda in support of a motion for summary judgment shall not exceed 20 pages and a separate statement of material facts shall not exceed 10 pages. Parties responding to summary judgment motions are allowed 20 pages for a brief and 5 pages for a statement of additional facts. *See* LR 56.1.

Plaintiffs named seven Defendants in this case.<sup>1</sup> Under Local rule 56.1, each Defendant is entitled to file a motion for summary judgment with a 20-page memorandum of law and a 10-

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<sup>1</sup> The seven named Defendants are Bain Capital Private Equity, Charlesbank Capital Partners, LLC, Jeff Webb, Varsity Spirit Fashions & Supplies, Inc., Varsity Brands, LLC, Varsity Brands, LLC, and U.S. All Star Federation, Inc. Defendants have opposed Plaintiffs' attempt to add an additional seventeen defendants to this case. *See* ECF No. 349.

page statement of material facts, for a collective total of 140 pages of briefing and 70 pages of material facts.

To present the relevant arguments for summary judgment most efficiently, Defendants seek leave to file one joint motion for summary judgment addressing matters applicable to all Defendants and separate motions for summary judgment applicable to single Defendants. Under this request, these memoranda of law collectively would not exceed 100 pages in total and the statements of material fact collectively would not exceed 50 pages in total (and would, to the extent practicable, be combined). Defendants anticipate that the primary joint motion for summary judgment will be accompanied by a legal memorandum of approximately 50 pages. Defendants anticipate separate motions for summary judgment (with separate memoranda) will be filed by (1) Jeff Webb, (2) the U.S. All Star Federation, Inc., (3) Bain Capital Private Equity, and (4) Charlesbank Capital Partners. To allow the parties flexibility to present their arguments most efficiently across the five anticipated motions, Defendants request permission to allocate 100 total pages of legal briefing and 50 pages of statements of material fact across the motions as deemed necessary and appropriate by Defendants.

Good cause exists for Defendants' requested page allowances. This is a complex case in which Plaintiffs assert six causes of action under the laws of the United States and approximately 30 states. Unlike the *Fusion Elite* case, which was limited to claims related to All Star cheer, Plaintiffs here seek to pursue claims relating All Star cheer, scholastic cheer, cheer apparel, and cheer camps. According to Plaintiffs themselves, they seek damages and equitable relief relating to the indirect purchases of a myriad of products and services in three different antitrust product markets and five different antitrust geographic markets, for a total of eleven product/geographic market pairs. Because many but not all of the deficiencies in Plaintiffs' claims pertain to all

Defendants, Defendants seek to allocate the pages they would otherwise be entitled to (and indeed, reduce the total number of pages by nearly a third) across the anticipated motions. This will, Defendants submit, allow for the fairest and most efficient presentation of the relevant issues as applicable to Defendants jointly and individually. Allowing Defendants to allocate pages within the overall limits to their anticipated motions will likewise enable them to tailor their arguments to the relevant issues based on the development of their proposed primary motion and any rulings on Defendants' pending motions between now and the July 28 deadline for filing summary judgment motions.

### **CONCLUSION**

For the reasons set out above, Defendants respectfully request that the Court issue an order allowing Defendants to file up to 100 pages of legal briefing and 50 pages of statements of material facts collectively across their five anticipated motions for summary judgment.

Dated: June 22, 2023

Respectfully submitted,

s/ Matthew S. Mulqueen

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**CERTIFICATE OF CONSULTATION UNDER LOCAL RULE 7.2(a)(1)(B)**

I hereby certify that on June 16, I notified Plaintiffs' counsel via telephone and email that Defendants intended to file a motion setting briefing allowances for summary judgment, and proposing the briefing limits set out in this motion with matching limits for Plaintiffs' response briefs. David Seidel, counsel for Plaintiffs, responded on June 20, 2023, to state that Plaintiff opposed Defendants' proposal and to suggest a conference with the Court. Defendants are available at the Court's convenience if the Court wishes to discuss the matters raised in this motion at a conference.

s/ Matthew S. Mulqueen  
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Matthew S. Mulqueen